IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 17833 of 2004

Between:

Simon,

S/o.Purushotham
R/o.H.No.TRT 114,

Industrial Colony, Warangal

WARANGAL DISTRICT.

..... PETITIONER

AND

1 The Regional Manager,

APSRTC Adilabad Region,

Adilabad District.
2 The Depot Manager,

APSRTC.,

Asifabad Bus Depot,

Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of writ of mandamus declaring the action of the respondent not paying the salary to the petitioner by computing the national increments from the date of termination to till the date of reinstatement (i.e, w.e.f. 4-12-1981 to 4-3-1995) as illegal, arbitrary and unjust and consequently direct the respondent to pay the salary to the petitioner by computing the notional increments from the date of termination to till the date of reinstatement i.e w.e.f 4-12-1981 to 4.3.1995).

Counsel for the Petitioner: Mr. Y.SUBBA RAO
Counsel for the Respondents: SMT. P.RAJANI REDDY

The Court made the following ORDER:

The petitioner is working as a Conductor in the respondent-corporation since 1980. He was issued a charge sheet for cash and ticket irregularities and he was removed from service vide proceedings dated 4-12-1981. He preferred an industrial dispute, covered by I.D.No.99 of 1992 before the Labour Court, Warangal and the Labour Court passed an award on 9-8-1994, directing the respondent-corporation to reinstate the petitioner with continuity of service, but without back wages and imposed a further punishment of stoppage of one annual increment with cumulative effect. The petitioner was reinstated into service on 4-3-1995, but his pay was not fixed by adding notional increments for the out of service period from 4-12-1981 to 4-3-1995. The petitioner, therefore, approached this Court seeking a direction to the respondent to fix his pay by adding notional increment for the out of service period.

The award of the Labour Court is indicating that on reinstatement, the petitioner is entitled for continuity of service, but without back wages. A Division Bench of this Court, in **REGIONAL MANAGER, APSRTC, NIZAMABAD v. B.CHANDER RAO** held that the employee, who was reinstated with continuity of service is entitled for notional increments. The Division Bench, while rendering the above decision, distinguished the judgment of the Supreme Court in **APSRTC & ANOTHER v. S.NARASA GOUD**, wherein the Supreme Court held that an employee is not entitled for increments for the period of his unauthorised absence, unless the said period is regularised. The Division Bench also relied on another judgment of the Supreme Court in **DEVENDRA PRATAP NARAIN RAI SHARMA v.STATE OF U.P.** and delivered the judgment in **B.CHANDER RAO** (1 Supra).

In the light of the judgment of the Division Bench in **B.CHANDER RAO** (1 supra) and in the light of the orders of the Labour Court extending the benefit of continuity of service, the petitioner is entitled to get the notional increment for the out of service period from 4-12-1981 to 4-3-1995.

In the result, this Writ Petition is allowed. The respondents are directed to fix the pay of the petitioner by working out the notional increments of the petitioner for the period from the date of termination till the date of reinstatement within eight weeks from the date of receipt of a copy of this order. No order as to costs.

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(Dr.G.YETHIRAJULU,J)

4th October, 2004.

Tsy/svs

To

1 The Regional Manager,

APSRTC Adilabad Region,

Adilabad District.

2 The Depot Manager,

APSRTC.,

Asifabad Bus Depot,

Adilabad District.

3 Two CD Copies.